

REMARKS

Applicant respectfully request entry of the amendment of claims 3 and 5 in order to place claims 3 and 5 in better condition for appeal, in consideration of the fact that the amendment to claims 3 and 5 does not raise new issues.

The Examiner rejected claims 1, 3-7 and 9 under 35 U.S.C. §102(e) as allegedly being anticipated by Gaither (US Patent No. 6,223,256).

The Examiner rejected claim 8 under 35 U.S.C. §103(a) as allegedly being unpatentable over Arlitt et al. (US Patent No. 6,272,598, hereinafter "Arlitt") in view of the Applicant's admitted prior art.

Applicant respectfully traverses the §102(e) and §103(a) rejections with the following arguments.

35 U.S.C. §102(e)

The Examiner rejected claims 1, 3-7 and 9 under 35 U.S.C. §102(e) as allegedly being anticipated by Gaither (US Patent No. 6,223,256).

Claim 1

Applicant respectfully contends that Gaither does not anticipate claim 1, because Gaither does not teach each and every feature of claim 1. For example, Gaither does not teach "wherein the act of analyzing is performed by a predictive modeling engine".

The Examiner argues Gaither discloses that "the act of analyzing is performed by a predictive modeling engine (col. 8, lines 45 - 47, collection and analysis of information is done by operating system or software. Abstract states "Class attributes may indicate a relative likelihood of future use." These two teachings of Gaither read on the 'predictive modeling engine' limitation.)".

In response to the preceding argument by the Examiner, Applicant acknowledges that col. 8, lines 45-47 of Gaither teaches that the operating system or software gathers certain information. However, Applicant contends that col. 8, lines 45-47 of Gaither does not teach that the operating system or software performs the act of analyzing as required by claim 1.

Based on the preceding argument, Applicant respectfully maintains that Gaither does not anticipate claim 1, and that claim 1 is in condition for allowance.

Claims 3 and 4

Applicant respectfully contends that Gaither does not anticipate claim 3, because

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Gaither does not teach each and every feature of claim 3. For example, Gaither does not teach “updating a caching profile in response to arrival of a file at the cache”.

The Examiner argues Gaither discloses that “updating a caching profile in response to arrival of a file (col. 8 lines 41- 53, act of updating a caching profile in response to arrival of a file is disclosed, since the collection and analysis of information is done *dynamically* at run-time)”.

In response to the preceding argument by the Examiner, Applicant contends that col. 8 lines 41-53 of Gaither does not teach “updating a caching profile”. In fact, col. 8 lines 41-53 of Gaither does not teach updating anything. Additionally, Applicant contends that col. 8 lines 41-53 of Gaither does not teach performing anything “in response to arrival of a file”.

Based on the preceding arguments, Applicants respectfully maintain that Gaither does not anticipate claim 3, and that claim 3 is in condition for allowance. Since claim 4 depends from claim 3, Applicants contend that claim 4 is likewise in condition for allowance.

In addition with respect to claim 4, Applicant respectfully contends that Gaither does not teach “wherein the act of analyzing is performed by a predictive modeling engine” as explained *supra* in conjunction with claim 1.

Claims 5-7 and 9

Applicants respectfully contend that Gaither does not anticipate claim 5, because Gaither does not teach each and every feature of claim 5. For example, Gaither does not teach “responsive to arrival of a file at the cache, analyzing information stored in a caching profile by computing a plurality of metrics”.

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The Examiner argues Gaither discloses that “responsive to arrival of a file at a cache, analyzing information stored in a caching profile by computing a plurality of metrics (col. 5 lines 7 - 8, classes are ranked in a hierarchy, this requires some basis for comparison, or metrics. See also col. 8, lines 2 - 9, measure of likelihood of future use is also taught)”.

Applicant contends that the preceding argument by the Examiner has no relevance to “responsive to arrival of a file at a cache, analyzing information stored in a caching profile”.

Based on the preceding arguments, Applicant respectfully maintains that Gaither does not anticipate claim 5, and that claim 5 is in condition for allowance. Since claims 6-7 and 9 depend from claim 5, Applicants contend that claims 6-7 and 9 are likewise in condition for allowance.

In addition with respect to claim 6, Applicant respectfully contends that Gaither does not teach “wherein the plurality of metrics includes clustering metrics”. The Examiner alleges Gaither teaches that “the plurality of metrics includes clustering metrics (col. 13, line 4, non-uniform distribution implies clustering). In response, Applicant notes that col. 13, line 4 of Gaither is referring to heirarchical sections with non-uniform distributions, which does not appear to have any relevance to clustering metrics. Gaither does not define or explain what he means by “distributions” or what non-uniformity of a distribution means. The Examiner’s argument appears to depend on a play on words in Gaither without supporting analysis. In addition, even if col. 13, line 4 of Gaither discloses non-uniform distributions that have relevance to the metrics of claim 6 (which he doesn’t), a clustering metric is only a special case of a non-uniform metric and there are non-uniform metrics that are not clustering metrics; thus a non-

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uniform metric does not imply a clustering metric. Based on the preceding argument, Applicant respectfully contends that Gaither does not anticipate claim 6.

In addition with respect to claim 7, Applicant respectfully contends that Gaither does not teach "wherein the plurality of metrics includes scattering metrics". The Examiner alleges Gaither teaches that "the plurality of metrics includes scattering metrics (col. 13, line 3, in a uniform distribution things are scattered evenly). In response, Applicant notes that col. 13, line 3 of Gaither is referring to heirarchical sections with uniform distributions, which does not appear to have any relevance to scattering metrics. Gaither does not define or explain what he means by "distributions" or what uniformity of a distribution means. The Examiner's argument appears to depend on a play on words in Gaither without supporting analysis. In addition, even if col. 13, line 4 of Gaither discloses uniform distributions that have relevance to the metrics of claim 7 (which he doesn't), a scattering metric is the opposite of a clustering metric (see specification of present patent application, page 10, line 11). Also as illustrated in the examples presented in the present patent application, a scattering metric must include some non-uniformity by definition. See example of scattering metric S2 on page 8, line 19 - page 9 of the specification of present patent application. Thus, a uniform metric cannot be a scattering metric. Based on the preceding argument, Applicant respectfully contends that Gaither does not anticipate claim 7.

In addition with respect to claim 9, Applicant respectfully contends that Gaither does not teach "wherein the act of analyzing is performed by a predictive modeling engine" as explained *supra* in conjunction with claim 1.

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35 U.S.C. §103(a)

The Examiner rejected claim 8 under 35 U.S.C. §103(a) as allegedly being unpatentable over Arlitt et al. (US Patent No. 6,272,598, hereinafter "Arlitt") in view of the Applicant's admitted prior art.

Applicant respectfully contends that since claim 8 depends from claim 5, which Applicants have argued *supra* to be patentable under 35 U.S.C. §102, Applicants maintain that claim is not unpatentable under 35 U.S.C. §103(a).

In addition, Applicant respectfully contends that claim 8 is not unpatentable over Arlitt in view of the admitted prior art because Arlitt in view of the admitted prior art does not teach or suggest "responsive to arrival of a file at the cache, analyzing information stored in a caching profile by computing a plurality of metrics".

The Examiner argues Arlitt discloses that "responsive to arrival of a file at a cache, analyzing information stored in a caching profile by computing a plurality of metrics (col. 5, lines 48- 50)".

In response to the preceding argument by the Examiner, Applicant contends that col. 5, lines 48- 50 of Arlitt has no relevance to "responsive to arrival of a file at a cache, analyzing information stored in a caching profile".

Based on the preceding arguments, Applicant respectfully maintains claim 8 is not unpatentable over Arlitt in view of the admitted prior art, and that claim 8 is in condition for allowance.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below.

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